

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE AMENDING SECTION 19.52.030 AND
19.52.060 OF THE SUNNYVALE MUNICIPAL CODE
REGARDING ARTWORK REQUIRED**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS
FOLLOWS:

SECTION 1. SECTION 19.52.030 AMENDED. Section 19.52.030 of the
Sunnyvale Municipal Code is hereby amended to read as follows:

19.52.030 Artwork Required.

(a) [Text unchanged]

(b) Maintenance, Repair, and Replacement Responsibilities.

(1) ~~The owner of such property shall maintain the artwork, or cause it to be maintained, in good condition continuously after its installation. Maintenance shall include all includes all necessary repairs and upkeep of the artwork, related landscaping, lighting and identification plaque. Violation of the maintenance requirements may result in the imposition of administrative fines and penalties under Chapter 1.06 of the Sunnyvale Municipal Code, and may include the cost to the city of maintaining or repairing the artwork should a property owner fail to do so. No piece of required art approved pursuant to this chapter may be removed, except for required maintenance or repair, except with the approval of the city which may be conditioned upon replacement of the piece. Removal or replacement of artwork shall be~~

(2) No piece of required artwork approved pursuant to this chapter shall be removed, except temporarily for required maintenance or repair, nor shall the owner take any action that alters the public visibility of the artwork as originally approved by the arts commission pursuant to Section 19.52.080, unless the owner first obtains the approval of the city. Such approval may be conditioned upon replacement of the artwork in accordance with the procedures set forth in Section 19.52.060 for approval by the arts commission. In the event that the artwork is stolen, destroyed, or lost for any reason, the owner shall replace the artwork with the original artist and using the same design, if reasonably possible. Otherwise, the owner shall replace the artwork in accordance with the procedures set forth in Section 19.52.060 for approval by the arts commission. The value of the replacement artwork shall not be less than the total insured value of the original artwork at the time of its theft, destruction, or loss, including any applicable deductibles. If the artwork was not insured at the time of its theft, destruction, or loss, the value of the replacement artwork shall not be less than 1% of the construction valuation of the original project indexed to the Consumer Price Index for the Greater Bay Area.

(3) Where replacement of artwork is required by subsection (b)(3), but siting artwork on the property is no longer feasible due to changed physical conditions, the owner may apply for an in-lieu fee alternative under Section 19.52.100(b). The amount of the in lieu fee shall be the total insured value of the original artwork at the time of its theft, destruction, or loss, including any applicable deductibles, less any amount previously contributed to the public arts fund under Section 19.52.100(c) in connection with the original installation of the artwork. If the original artwork was not insured at the time of its theft, destruction, or loss, the in lieu fee shall be 1% of the construction valuation of the original project indexed to the Consumer Price Index for the Greater Bay Area, less any amount previously contributed to the public arts fund under Section 19.52.100(c) in connection with the original installation of the artwork.

(4) Failure to maintain the artwork as required by this Section is declared to be a public nuisance. If the artwork is not maintained in the manner prescribed, the city may, in addition to all other remedies provided by law, upon reasonable notice, perform all necessary maintenance and repairs, secure insurance, or take such legal or other action deemed necessary to preserve the artwork or restore it to good condition, and the costs therefor may be collected as provided in Chapter 9.26 as costs incurred to abate a public nuisance. Failure to maintain or replace artwork as required by this section may also subject the owner to administrative citations under Chapter 1.05 and/or civil penalties under Chapter 1.06. Proceedings under Chapter 1.06 shall be heard by an appeals board designated by the City Manager. The Director of Parks and Recreation and the Director of Community Development shall have concurrent authority to enforce the provisions of this section.

(5) ~~Property Owners~~The property owner shall record a document with the county recorder containing a description of the art and noting the obligation of present and future property owners to ~~maintain and repair the maintenance, repair and replacement of the artwork.~~

(c) [Text unchanged]

(d) [Text unchanged]

SECTION 2. SECTION 19.52.060 AMENDED. Section 19.52.060 of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.52.060 Permit and fee required.

(a) Whenever installation of artwork is required pursuant to this chapter, a permit for the installation of such artwork shall be obtained pursuant to this section prior to such installation. Such permit shall be obtained prior to issuance of any approval or certificate of occupancy for the new construction. Proceedings to obtain such permit shall be initiated by an application signed by the owner or owners of the lot or lots subject to the requirements of this chapter. All applications for permits to be issued hereunder must be accompanied by payment of an application fee at the time of submittal. The amount of the fee shall be fixed by resolution of the

city council. The application shall be filed with the director of community development on forms furnished for the purpose. The application shall contain the following information:

- (1) Completed Public Art Information form;
- (2) Completed Eligible Costs Worksheet;
- (3) (1)—Landscape and site plans indicating the location and orientation of the artwork and the landscaping and architectural treatment integrating the piece into the overall project design;
- (4) (2)—A sample, model, or photograph of the proposed artwork and "to-scale" drawings or photograph of the proposed art piece;
- (5) (3)—Material samples and finishes if appropriate;
- (6) (4)—A resume of the proposed artist;
- (7) (5)—Slides and/or photographs of the proposed artist's past work which demonstrates like work to the proposal;
- (8) (6)—A written statement by the artist describing any theme or development of the art, as well as a discussion of the manner in which the proposed art meets the criteria in Section 19.52.080;
- (9) (7)—Such other information or material as may be required by the director of community development.

- (b) [Text unchanged.]
- (c) [Text unchanged.]
- (d) [Text unchanged.]
- (e) [Text unchanged.]
- (f) [Text unchanged.]
- (g) [Text unchanged.]
- (h) [Text unchanged.]
- (i) [Text unchanged.]

SECTION 3. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the Santa Clara County Clerk in accordance with Section 14 of the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 193-86.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2004, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2004, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor